| This document represents policy in development and should not be taken as government policy. It may be used to illustrate the direction of trailblazer deals to relevant impacted parties. Information below is subject to change but will not be done so substantively without prior consultation with areas. |
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| Version 3 – 12 September 2023<br>*Notes on Version: On 12 Sept, DLUHC accepted changes received by WMCA from WMFDs on 7 Sept. Additional paragraphs 14 & 15 on growth zones now added following receipt from DLUHC.* |

# Trailblazer 100% Business Rates Retention Agreement: West Midlands

1. This agreement sets out the terms by which the local authorities listed at Annex A (hereafter referred to as the West Midlands authorities) and the West Midlands Combined Authority (hereafter referred to as the Combined Authority and WMCA) will implement the 100% business rates retention arrangement as included in the WMCA Trailblazer deeper devolution deal, published 15 March 2023.

2. This agreement comes into effect from 1 April 2024 and will be in place for the Financial Years 2024-25 to 2033-34 inclusive.

3. Superseding the agreement between the Government and the West Midlands authorities (attached at Annex B) in place from 1 April 2017 to 31 March 2024, the arrangements implemented from 1 April 2024 will aim to:

    - Support the long-term financial and economic sustainability and economic growth of the combined authority.
    - Support devolution strategy and Levelling Up objectives across local government.
    - Provide more control of income and strengthen local accountability, whilst recognising that risk comes with reward and deeper devolution comes with strong accountability.

4. Upon the arrangement coming into effect on 1 April 2024, the West Midlands authorities will continue to retain 99%[1] of their non-domestic rating income[2]. They will also receive section 31 grants in respect of Government changes to the business rates system. Section 31 grant receivable by the West Midlands authorities will amount to 99% of the value of the lost income. West Midlands authorities will forgo Revenue Support Grant, but tariffs and top-ups will be adjusted to ensure cost neutrality.

5. The value of these grants in 2024-25 to 2033-34 will be set out each year in the annual Local Government Finance Settlement.

6. Business rate shares, tariffs and top ups and baseline funding levels for 2024-25 to 2033-34 for West Midlands authorities will also be set out in the annual Local Government Finance Settlement.

7. The government set out at the inception of the business rates retention system, a mechanism by which business rates baselines will be reset and the accumulated growth redistributed, reflecting the differences between local authorities' relative needs and their business rates income. The amounts to be received or paid by authorities (top-ups and tariffs) will be re-determined periodically through a business rates reset, for which these arrangements will be in scope. The only exemption from a reset - at HMG's discretion - will be designated in law, with legislation denoting a specific geographic area.

## Combined authority share of retained business rates

8. The West Midlands trailblazer devolution deal stated that the retention of 100% business rates in the area over the 10-year term is conditional upon the West Midlands authorities continuing to provide an annual share of business rates growth to the WMCA, to support the long-term financial and economic sustainability and economic growth of the Combined Authority and the West Midlands regionally.

9. In 2024-25, the Combined Authority share of retained business rates from constituent authorities will total £13.5m, with this expected to increase by a maximum of £1.5m per annum. The provisional value of this share, which is confirmed on an annual basis, is agreed by the Section 151 Officers for WMCA and the West Midlands authorities to help place the Combined Authority on a sustainable financial footing.

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[1] 1% will continue to fund Fire and Rescue responsibilities.
[2] As defined in the Non-Domestic Rating (Rates Retention) Regulations 2013 (SI2013/452) (as amended).

10. Should a reset of business rates baselines substantially and materially impact the financial positions of constituent authorities in such a way that the funding arrangements set out in **paragraph 9** for the Combined Authority share are at risk, HMG will maintain the substance of the WMCA share as set out in **paragraph 9**. Any such changes to the Combined Authority share arrangement would require collective agreement of HMG, the WMCA and the West Midlands authorities.

## Risk and reward

11. Notwithstanding the calculation and payment of any levy or safety net under the Regulations, the Government will calculate levy and safety net payments due from/to individual West Midlands authorities on the basis that each authority had a "zero" levy rate and a safety net threshold of 97%. This reflects the additional level of risk brought through 100% rates retention. [To note – the mechanics of safety net payments by government are yet to be agreed.] These will be applied at an individual authority level.

    Considering the agreement on levy rate and a safety net threshold and with view to finding the right balance of risk and reward, the Government and West Midlands agree to remove the 'no detriment' clause included in the 2017 devolution deal, as included at Annex B(i). West Midlands will continue to apply a local-level assessment of the 'no detriment' determination per authority, with constituent authorities across the area providing support based upon local agreement.

## Interactions with other government policy – Investment Zones

12. Local authorities must ensure that the benefit of locally retained business rates above the agreed baseline that are generated from the Investment Zone BRR site (s) contribute to and promote the objectives of the Investment Zone. Calculations of growth will be delivered by designating the Investment Zone Business Rate Retention sites in regulations made under paragraph 39 of Schedule 7B to the Local Government Finance Act 1988. The Regulations will provide that, within the designated area, the billing authority will retain 100% of the collectible business rates in excess of a baseline set in the regulations. Local areas will be responsible for ensuring that the cumulative amount of investment within the Investment Zone at minimum includes the business rates retained locally through the Investment Zone business rates retention site.

13. Where expected growth in locally retained business rates have been assumed and budgeted for use within Financial Year 2024-25 prior to Investment Zone baselines being set, and this can be evidenced sufficiently, government will allow full relaxation of spending requirements within the Investment Zone business rate retention site for FY2024-25.

14. Alongside the 10-year business rates retention arrangements, government and West Midlands aim to designate for FY2024-25 up to [*insert number*] 'Growth Zones' within the West Midlands. These sites will retain growth above an agreed baseline for a period of 25 years.

15. Calculations of growth will be achieved by designating the growth zone in regulations made under paragraph 39 of Schedule 7B to the Local Government Finance Act 1988. The Regulations will provide that, within the designated area, the billing authority will retain 100% of the collectible business rates in excess of a baseline set in the regulations.

## Trailblazing and beyond

16. Should government policy on devolution advance significantly during these arrangements' 10-year period, central government will discuss, where appropriate, the feasibility and suitability of further devolution measures – providing such measures are not counter to the objectives set out in **paragraph 3**.

## Review of the arrangement

17. The Government, WMCA and West Midlands authorities agree to consult on and review the implementation and functioning of this arrangement as necessary throughout the period set out at **paragraph 2**. This may result in modification to the terms of this arrangement, where agreed by Government, WMCA and the West Midlands authorities.

18. Should such modification under **paragraph 17** be necessary, the arrangements under this agreement may be suspended pending final agreement, providing:

(a) Adequate notice is provided to DLUHC for the purposes of the local government finance settlement; and
(b) Local Authorities share with DLUHC a clear plan for how the WMCA share will be maintained at an appropriate level, in accordance with the terms set out at **paragraphs 9** to**10**.

## Signing of the agreement

| For the Government: | For WMCA and West Midlands authorities: |
|---|---|
| Nico Heslop | Laura Shoaf |

**Annex A: Authorities covered by the agreement**

| **West Midlands authorities** |
|---|
| Birmingham |
| City of Wolverhampton |
| Coventry |
| Dudley |
| Sandwell |
| Solihull |
| Walsall |
| |
| West Midlands Combined Authority |

**Annex B: The agreement between Government and the West Midlands authorities (except West Midlands Combined Authority) in place from 1 April 2017 to 31 March 2024**

*<u>100% Business Rates Retention Pilot Agreement: West Midlands</u>*

*This agreement sets out the terms by which the local authorities listed at Annex [A][1] (hereafter referred to as the West Midlands authorities) will pilot 100% business rates retention.*

*This agreement comes into effect from 1st April 2017 and expires on the national introduction of full business rates retention.*

*The pilot is to be without detriment to the resources that would have been available to individual West Midlands authorities under the current local government finance regime, over the four year Settlement period, including the resources that would have been available to the Councils under the business rates retention scheme. Details of this arrangement are set out under Annex [B(i)].*

*From 1st April 2017 the West Midlands authorities will retain 99%[2] of their non-domestic rating income[3] plus compensation, via section 31 grant, for Government announcements that have reduced business rates income amounting to 99% of the value of the lost income. Tariffs and top-ups will be adjusted to ensure cost neutrality. In moving to 100% rates retention DCLG will no longer pay Revenue Support Grant to the West Midlands authorities.*

*The value of what would have been this grant in 2017/18 is set out in Annex [not included].[4] Under the terms of the multi-year settlement agreed with West Midlands authorities, the Government has agreed to provide greater certainty about Revenue Support Grant totals from 2017-18 until the end of the Parliament. Whilst RSG totals will need to take account of future events such as the transfer of functions to local authorities, transfer of responsibility between authorities and other unforeseen events, the Government expects the totals set out in Annex [not included] for future years to be those used in future local government finance settlements.*

*Business rate shares; tariffs and top ups and baseline funding levels for 2017/18 for West Midlands authorities are set out in Annex [not included].*

*Levy and safety net payments due from/to the West Midlands authorities, or any pool of which they are members, will be calculated, in accordance with the Non-Domestic Rating (Levy and Safety Net) Regulations 2013 (SI 2013/737) (as amended), as if*

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[2] 1% will continue to fund the West Midlands Fire and Rescue Authorities.
[3] As defined in the Non-Domestic Rating (Rates Retention) Regulations 2013 (SI2013/452) (as amended).
[4] Figures set out in Annex C are set for 3 years 2017/18 – 2019/20. These are subject to change in 2018/19 should funding allocations change for the services funded through business rates.

*West Midlands authorities were* ***not 100% pilots, but instead were operating under the 50% rates retention scheme.***

*However, notwithstanding the calculation of levy and safety net payments under the Regulation, the Government will calculate levy and safety net payments due from/to individual West Midlands authorities on the basis of their "retained income" as 100% pilot authorities and on the basis that each authority had a "zero" levy rate and "safety net threshold" of 97%. Any safety net payment due as a result of these calculations will be paid via a section 31 grant.*

*The Government is committed to work with the West Midlands authorities to develop and deepen the pilot for 2018-19 in line with the ambitions of the authorities. For 2018-19, the Government and West Midlands authorities will revise the pilot to reflect any changes to funding allocations; and will review the terms of the pilot with a view to the possibility of:*

- *rolling-in further grants and funding streams, (with commensurate adjustments to tariffs and top-ups), including those that might assist West Midlands authorities to grow jobs and improve their skill base; and*
- *assisting West Midlands authorities to provide the necessary infrastructure to grow jobs and skills, by creating an investment capability to support growth by means of adjustments to the operation of the pilot and the business rates retained under it.*

***Annex B(i): No Detriment***

## ***Calculating "No-Detriment"***

*Introduction*

1. *The 100% pilot is without detriment to the resources that would have been available to the West Midlands authorities under the current local government finance regime over the four year settlement period.*

2. *In any year for which the pilot exists, to the extent that the pilot arrangements result in fewer resources being available to West Midlands Authorities than would have been the case under the existing local government finance regime, the Government will make good the difference, as measured at the level of the pilot area.*

3. *The "no detriment" calculation will be undertaken following the end of the financial year and the submission of certified figures for non-domestic rating income (i.e. following submission of certified NNDR3s) and any payment due from Central Government will be made on the same date as any other 2017/18 reconciliation or Safety Net payments.*

*Principles*

4. *To calculate whether the "no detriment" clause is triggered, for each individual authority, we will compare the difference between (A) and (B) for each year, where:*

   *(A) is the sum that would have been retained by the West Midlands authorities under the 50% rates retention scheme in that year, and (B) is the retained business rates income actually retained under the pilot.*

   *A and B will comprise of the following:*

   *(A)*

   i. *49%[5] of certified non-domestic rates income for the West Midlands authorities;*

   ii. *compensation for Enterprise Zone reliefs – (currently deducted from the 'central share').*

[5] 1% going to the West Midlands Fire and Rescue Authority

*ii.* *the tariff/top-up payment that the authorities would have paid/received if the authorities had not been part of the 100% pilot;*[6]

*iv.* *any safety net payment that would have been due to the authorities under the 50% scheme based on a safety net threshold of 92.5% of Baseline Funding Level; and*

*v.* *the section 31 payments resulting from Government announcements that would have impacted on retained business rates income that would have been due to the authority under the 50% scheme;*

*vi.* *any money from additional growth pilots i.e. relating to the West Midlands devolution deal and;*

*vii.* *the amount of revenue support grant that would have been paid to the authorities. The amounts are listed at Annex C.*

*(B)*

*i.* *99% of certified non-domestic rates income;*
*ii.* *The tariff/top up payment for the authority for the year;*[7]
*iii.* *Any safety net payment, and/or s.31 payment in lieu of a safety net payment based on 97% of the baseline funding level for the year;*
*iv.* *Section 31 Grants due under 99% rates retention*[8]*, including compensation for Enterprise Zone reliefs.*

*The differences between (A) and (B) at the authority level will then be aggregated at the pilot level and only if A > B at the aggregate level, will a payment be due from central government to the value of that positive difference.*

*The 100% pilot will apply from 1 April 2017 and the business rates income and share of provisions due to each authority under 100% rates retention will*

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[6] For 2017/18, this will be a “notional” tariff and top up based on the 2016/17 tariff/top-up, adjusted for the “Revaluation wash-through” that would have applied if the authority had not been a 100% pilot. For 2018/19, it will be the 2017/18 “notional” tariff/top-up adjusted for the revenue support grant that will have been included in in the 2018/19 pilots; for the on-going “Revaluation wash-through” and for the reconciliation of the 2017/18 “Revaluation “wash-through” adjustment; and multiplied by the change in the small business rates multiplier.

[7] For 2017/18, as set out under Annex C, and for 2018/19, the value for 2017/18 adjusted for the revenue support grant that would have been transferred in 2018/19, for the on-going “Revaluation wash-through” and for the reconciliation of the 2017/18 adjustment, and multiplied by the change I the small business rates multiplier.

[8] The calculation of section 31 grants due to authorities will be based on 99% local shares – except insofar as the existing “50%” shares will continue to be used in respect of adjustments prior to 2017/18.

*apply from this date. Prior year adjustments of income for years before 2017-18 will continue to be based on the 50% scheme. These include:*

a. *Prior year adjustments to which section 31 grants would apply.*
b. *Prior year adjustments for reliefs.*
c. *Calculation of the Collection Fund surplus deficit, or any part of it, relating to 2016/17.*

*The West Midlands authorities agree that they will also apply this no detriment calculation at an individual authority level. In the event that A > B for one or more authorities, the other authorities will contribute the necessary funds to fully reimburse this difference. Contributions will be pro rata to each authority's excess of B over A.*

*The West Midlands authorities acknowledge that the business rates growth amount due to the Combined Authority under the Devo Deal is part of the figure set out in (b) above. The councils are committed to further discussions with the Combined Authority to agree the calculation of this share but, in the absence of any other specific agreement, this will be the amount that would have been due under (A)vi above. The authorities and DCLG are further committed to pursuing discussion with the Combined Authority to seek to develop and pilot alternative approaches to the calculation of the amount due to the Combined Authority under the Devo Deal growth pilot with 100% local retention of business rates, with a view to possible implementation from 2018/19 onwards.*